

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

UNITED STATES OF AMERICA)	
)	
v.)	Criminal Case No. 1:13-cr-00142-PB
)	
JOHNATHON IRISH)	
_____)	

**UNITED STATES' ASSENTED-TO MOTION TO STAY RULING
ON DEFENDANT'S MOTION TO DISMISS COUNT V OF THE INDICTMENT**

The United States of America through John P. Kacavas, the United States Attorney for the District of New Hampshire, with assent from Johnathon Irish, by and through his attorney, Jonathan Saxe, Esq., respectfully requests that the Court stay any ruling on the defendant's Motion to Dismiss Count V of the Indictment.

1. On April 1, 2014, the defendant filed a Motion to Dismiss Count V of the Indictment on constitutional grounds, arguing that the charging statute – 18 U.S.C. § 922(g)(3) – violates the Second Amendment as construed in District of Columbia v. Heller, 554 U.S. 570 (2008). On April 8, 2014, the United States filed its objection to the defendant's motion.

2. The parties have since engaged in negotiations which, for the first time in the duration of this case, indicated that a pretrial disposition might be possible. In light of those discussions (and also in light of the need for additional time to prepare for a potential trial, if such a trial is necessary), the defendant filed, on April 7, 2014, an Assented-To Motion to Continue the Trial for 60 days.

3. On April 8, 2014, the Court granted the defendant's Motion to Continue, scheduling the trial for the two-week period beginning July 8, 2014.

4. In order to avoid the potentially unnecessary expenditure of judicial resources, and to facilitate the presently active negotiations between the parties, the United States, with the assent of the defendant, requests that the Court stay any ruling on the defendant's Motion to Dismiss at this time.

5. The United States has opted to file its objection and move to stay any ruling, rather than simply continue its filing deadline, because the issues raised by the defendant, if litigated, implicate significant matters of constitutional import. Thus, in the event a hearing and/or ruling is ultimately required, pursuing this procedural course will provide the Court with all of the parties' respective pleadings should it wish to review them in advance.

6. In any event, the parties agree that if the case is not resolved by April 30, 2014, they will jointly seek a date to be heard on their respective arguments concerning the constitutionality of 18 U.S.C. § 922(g)(3), thus providing the Court with more than two months to hear and consider the issues raised in the defendant's Motion to Dismiss prior to trial.

For the foregoing reasons, the United States of America, with assent from Johnathon Irish, by and through his attorney, Jonathan Saxe, Esq., respectfully requests that the Court decline to schedule any hearing, and stay any ruling, on the defendant's Motion to Dismiss, until further notice of the parties.

Respectfully submitted,

JOHN P. KACAVAS
United States Attorney

By: /s/ Nick Abramson
Nick Abramson
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Dated: April 8, 2014

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Assented-To Motion to Stay Ruling on Defendant's Motion to Dismiss Count V of the Indictment was electronically served upon Jonathan Saxe, Esq., counsel for the defendant.

/s/ Nick Abramson

Nick Abramson

Assistant U.S. Attorney